

N.D.

PEER REVIEW COMMITTEE -- INSURANCE COMPANY CONSPIRACY

ACTION ALERT	California insurance companies conspire with the California Chiropractic Association Health Service Foundation Peer Review Committee to standardize fees -- which is a violation of Federal Anti-Trust statutes.	ACTION
ACTION ALERT		ACTION
ACTION ALERT	The function of the Peer Review Committee is to review the reasonableness of the medical services rendered by chiropractors in the community. The Peer Review Committee is compensated by the insurance company for each claim reviewed. If the insurance carrier is not happy with the decision of the Peer Review Committee they merely stop referring claims for review. Therefore if the Peer Review Committee does not cut your bill... how will they get paid?	ACTION
ACTION ALERT		ACTION
ACTION ALERT	<u>Coincidentally, the same doctors who review the reasonableness of your bills for State Compensation Insurance Fund, also perform defense physical examinations for them. Let me ask you -- What would happen if State Compensation Insurance Fund sends YOUR bill for review on a patient that they have sent to the Peer Review Committee doctors for examination. Do you think they will approve your bill???</u>	ACTION
Dr TAIN		ACTION
ACTION ALERT		ACTION
ACTION ALERT	Philip E. Brown is the Chairman of the Peer Review Committee. He is also the attorney for the California Chiropractic Association. Philip E. Brown also has a private law practice. A substantial amount of his business involves litigating personal injury and workers compensation cases. Philip E. Brown has offered to use his position of power on the Peer Review Committee to allow a chiropractor who refers legal cases into his office for representation to charge higher fees than normally approved by the Peer Review Committee. He further has offered to give cash under the table for cases referred into his office for legal representation.	ACTION
ACTION ALERT		ACTION
ACTION ALERT	What happens if a chiropractor refuses to compromise his ethics and does not refer cases to Philip E. Brown in exchange for a kickback and preferential treatment from the Peer Review Committee? Let me tell you...his bill is cut...sometimes even disallowed entirely!!!	ACTION
ACTION ALERT		ACTION
ACTION ALERT	There are two problems confronting us:	ACTION
ACTION ALERT	1. The Peer Review Committee interferes with the doctor patient relationship by provoking elements of doubt and distrust in your patients, thus promoting a deterioration of the implied contractual relationship which exists between the doctor and the patient. This in effect, will reduce the scope of your license to that of a technician by effectively removing your basic right to use your individual discretion in the care of your patients and in the establishment of your fee for services.	ACTION
ACTION ALERT		ACTION
ACTION ALERT	2. Philip E. Brown has abused his position of power for his personal gain at the expense of professionals within the chiropractic community. This is a classic example of the liabilities inherent in a system which appoints officials to a position, rather than involving a democratic process, wherein members of the CCA would have a say in determining whom they consider to be their PEERS.	ACTION
ACTION ALERT		ACTION
ACTION ALERT	At present, Dr. Jeremy A. Sigmond, D.C. has filed a lawsuit in the Los Angeles Superior Court against Philip E. Brown, Joseph A. Berg, Benjamin B. Shearer and various insurance companies based on their conspiracy to fix prices. The above is the basis of said suit.	ACTION
ACTION ALERT		ACTION
ACTION ALERT	If you have had similar problems with the Peer Review Committee and/or insurance company bad faith practices, and would like to join Dr. Sigmond's suit or get more information, please contact Dr. Jeremy A. Sigmond, D.C., 2722 So. Robertson Boulevard, Los Angeles, California 90034; or Norman Edell, Attorney at Law, 5665 Wilshire Boulevard, Penthouse Suite, Beverly Hills, California 90211 - (213) 652-8090.	ACTION
ACTION ALERT		ACTION
ACTION ALERT	ACTION ALERT	ACTION
ACTION ALERT	ACTION ALERT	ACTION
ACTION ALERT	ACTION ALERT	ACTION
ACTION ALERT	ACTION ALERT	ACTION
ACTION ALERT	ACTION ALERT	ACTION

Peer Review - FRIEND OR FOE?

from Philip E. Brown, LL.B.
CCA/HSF Chief Administrator

The mechanism of Peer Review is not too well understood by many members of the profession. Consequently, we have decided that a review of the mechanism is in order.

First, it should be understood that all insurance claims are reviewed. They are reviewed by insurance personnel who have their own criteria by which a claim is determined to be "usual and customary." In conjunction with the initial review, questionable claims are brought to the attention of supervisors and in turn to "medical" reviewers. This basic approach to the handling of claims went on long before chiropractic Peer Review became recognized.

In the past, an insurance company paid a claim based on their own determination as to what was usual and customary, and also as to what was "within the scope of chiropractic practice." They established very low standards of fee schedules and very limited scope of practice as their guidelines.

The concept of chiropractic Peer Review did not come into being until about 20 years ago. At that time the CCA-HSF program was launched including a campaign of selling the idea that review of chiropractic claims could only be done by chiropractic doctors. The selling of that concept was a difficult and protracted mission that took much time, money and effort and continues to this day.

After convincing the insurance industry and the public alike that Peer Review meant a review by one's peers, we had to establish the credibility of the group doing the review. Initially one Peer Review committee was set up in the north and one in the south. The members of those committees were then selected and training sessions were established to set guidelines for a uniformity of review. As the volume of claims increased, the number of committees were increased to the point where there are now nine such committees, functioning on a local level. No less than five members sit on a committee, and no member shall have less than five years of practice experience.

The broadest cross section of committee members is sought, seeking diverse practice approaches. Many committees have "straight" practitioners functioning on them, although I personally do not think this is a necessity, as the so-called "mixers" are familiar with all techniques used by "straight" practitioners.

In an attempt to understand different approaches to practice, the developers and users of "new" or different schools of technique have appeared before the HSF executive meetings to explain their approach, so that "usual and customary" guidelines could be set up to encompass the wide diversity of approaches found within the chiropractic profession.

It should be noted that biannual meetings of the HSF Executive Board are held, to which all committee members are invited, and usually about 30 total are in attendance. These meetings are designed to update and upgrade Peer Review to maintain uniformity and quality, and to resolve unusual problems that may arise from time to time.

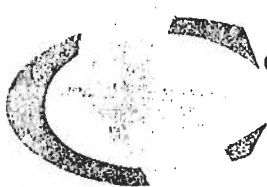
Perhaps a better understanding of Peer Review will be possible if the doctor understands the mechanism. All claims are sent to one central office, where they are catalogued. Then a letter is sent to the source of the claim, notifying them of receipt of the claim and the normal time to allow for review. Next, the claims are reviewed for "uniqueness" and are then sent to the individual head of the local review committee. He in turn distributes the claims to the committee members by mail, and a meeting time is established. Each member reviews the claim on prepared worksheets and then, in synoptic form, reports to the committee when they meet outlining the issues to be discussed. The committee then draws its conclusions, which are finalized for the form answer, which is then sent out by the committee chairman.

It is important to note that when the committee chairman mails the claims to the committee members, he simultaneously sends a notice of intention to review to the doctor whose claim is being reviewed. The doctor is given 10 days in which to respond in support of his/her claim, and he/she is notified that the claim will be reviewed with the information *available*. If the doctor fails to respond, the committee has no alternative but to proceed with the information at hand, and the committee can only conclude that the doctor is either indifferent to the impending review or has nothing to add to the information at hand.

Once the claim is reviewed the chairman mails out the conclusions to the submitter of the claim with a copy to the doctor.

Please keep in mind that the Peer Review committee does not attempt to interfere with the doctor's practice. It does not attempt to tell him/her how to practice nor what to charge; it only responds to the questions raised and tries to establish what is "usual and customary" practice, recognizing that the doctor has the right to practice in an unusual and unc customary way, as long as it is within scope of practice.

There are practical considerations to the setting up of Peer Review committees which should be understood. We cannot create a committee in an area where there may only be 5-10 claims a year. Yet, many smaller areas feel they should have their own committee, as they feel the practice is "unique" in their community. At one time the standards may have differed



California Chiropractic Association Health Service Foundation

2201 "Q" ST., SACRAMENTO, CALIF. 95816 · PHONE (916) 443-6601

October 23, 1980

PHILIP E. BROWN, LL.B.

CHIEF ADMINISTRATOR

15919 Ventura Blvd., Ste. 1109
Encino, CA 91435
(213) 981-0120

JOSEPH A. BERG, D.C.

STATE CHAIRMAN

PEER REVIEW COMMITTEES

24733 Quigley Canyon Rd.
Newhall, CA. 91321
(213) 367-6544
(805) 255-6670

HEALTH SERVICE FOUNDATION REGIONAL OFFICES

Los Angeles
8425 Reseda Blvd.
Northridge, Calif. 91324
(213) 885-6124

La Jolla 92037
7755 Fay Avenue
(714) 459-3303

Fresno 93711
1452 W. Shaw Avenue
(209) 215-0414

Sacramento 95825
2530 Fair Oaks Avenue
(916) 487-7864

San Rafael 94901
911 Mission Avenue
(415) 453-1040

El Toro 92630
23331 El Toro Rd.
(714) 516-2730

Riverside 92506
3701 Merrill Ave., Ste. 14
(714) 684-1915

Redi 93240
500 S. Fairmont Ave.
(269) 362-5535

Portingame 94010
1720 Marco Polo Way
(415) 627-8873

Michael D. Peterson, D.C.
Tahoe Chiropractic Clinic
P. O. Box 14487
South Lake Tahoe, CA 95702

Dear Dr. Peterson:

I am receipt of a letter which you sent to Dr. Braddock on October 10, 1980.

Firstly, I want to commend you for responding in depth to the request for information. It certainly makes it easier for the Committee to get a clear picture of the facts surrounding the case and gives them ammunition to try and support your handling of the case.

In regard to the issue you raised that has to do with Dr. Braddock's participation on the Peer Review Committee, on its face your objection is meritorious. However, you should understand that Dr. Braddock's true function on the Committee is that of handling the secretarial and paper work. He, himself, does not participate in the review of claims. Due to the heavy paper load the Committee was pleased to accept Dr. Braddock as a volunteer to cope with the problem and while the conclusions of the reviews are sent out over his name, it is merely perfunctory.

I hope this clarifies the issue. While Dr. Braddock has offered to step down, I for one would not want to lose his valuable and dedicated help.

Sincerely

Philip E. Brown, LL.B.
Chief Administrator - CCA-HSF

PEB:es

cc: E. J. Braddock, D.C.
Joseph Berg, D.C.
Mr. Garrett Cuneo, State Board
Executive Secretary
CCA Executive Board
J.J. Holland, D.C.

Not true.

CHAIRMAN

1 1/2 yrs in practice

LAW OFFICES
HARRY N. ROSENFELD
1735 DE SALES STREET, N.W.
WASHINGTON, D. C. 20036

June 28, 1982

CABLE ADDRESS
"LAWYER WASHINGTON."

TO: Chiropractic Leaders and Attorneys for Chiropractic Associations

RE: Peer Review Under Antitrust Law - Pireno Case

1. The Supreme Court of the United States, by a 6-3 vote, decided the Pireno Case and held that an unpaid and purely advisory peer review program organized by the N.Y. State Chiropractic Association to advise insurance companies on health insurance claims is not within the statutory definition of the "business of insurance" and is, therefore, not exempt from the Federal antitrust law under the McCarran-Ferguson Act. Union Labor Life Insurance Co. v. Pireno, June 28, 1982.

(a) The Supreme Court affirmed the decision of the U.S. Court of Appeals in New York and sent the case back for trial. The two courts below dealt with the pure question of law, and therefore there has been no trial so far.

2. Justice Brennan, speaking for the majority, made a special point of saying:

"Thus in deciding this case we have no occasion to address the merit of respondent's Sherman Act claims."

By this he meant that although the peer review system was not exempt from the antitrust law, the Court was not now deciding whether it violated or complied with that law.

3. The Court's decision was not affected in any way by the fact that chiropractic was involved. Its ruling was based on technical antitrust law and especially on a prior antitrust case dealing with pharmacists.

4. A dissenting opinion by Justice Rehnquist, joined by the Chief Justice and Justice O'Connor, disagreed with the majority's interpretation of the law and argued that since peer

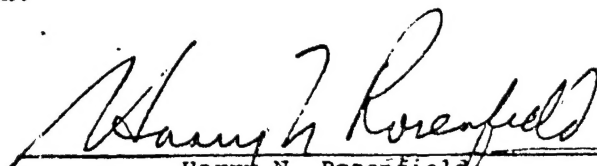
June 28, 1982

review was an aspect of claims adjustment, it was the "business of insurance" and therefore was exempt from the antitrust laws. He warned that

"...there can be little doubt that today's decision will vastly curtail the peer review process. Few professionals or companies will be willing to expose themselves to possible antitrust liability through such activity."

5. What now? - The Court's decision may well result in a basic change in the heretofore customary claims adjustment procedures of the health insurance industry. It is too early to tell what impact the Court's decision will have and particularly whether or not there will be a trial on the facts and what its result may be, as well as what the insurance industry (for whom the antitrust exemption was enacted) will do about the situation.

I recommend that ACA and the chiropractic profession take no action at the present moment and that sufficient time be allowed to pass for matters to get sorted out as a result of the Court's decision.



Harry N. Rosenfield

Washington Counsel

American Chiropractic Association



California Chiropractic Association Health Service Foundation



2201 "Q" ST., SACRAMENTO, CALIF. 95816 · PHONE (916) 443-6601

November 1, 1982

PHILIP E. BROWN, LL.B.

CHIEF ADMINISTRATOR

15910 Ventura Blvd., Ste. 1105
Encino, CA 91436
(213) 981-0120

MARCUS I. BROWN, D.C.

STATE CHAIRMAN

PEER REVIEW COMMITTEES

18614 Sherman Way
Reseda, CA 91335
(213) 881-0013

HEALTH SERVICE FOUNDATION
REGIONAL OFFICES

Los Angeles
8435 Reseda Blvd.
Brentwood, Calif. 91324
(213) 881-6124

La Jolla 92037
8950 Villa La Jolla Dr., Ste. 1220
(714) 457-3700

Fresno 93711
1452 W. Shaw Avenue
(209) 225-0414

Sacramento 95813
3639 Franklin Blvd.
(916) 452-3822

San Rafael 94901
211 Mission Avenue
(415) 453-1040

Garden Grove 92640
12021 Buena Street
(714) 971-5576

Riverside 92506
3701 Merrill Ave., Ste. 14
(714) 684-1915

Los Angeles 90040
930 S. Fairmont Ave.
(209) 362-5535

Burlingame 94010
1720 Marco Polo Way
(415) 697-5878

Sharon Frankenberg, RPT
Al Tahoe Physical Therapy Clinic
Post Office Box 14472
South Lake Tahoe, California 95702

Re; Separate Billings for Physical Therapy

Dear Ms. Frankenberg;

Please understand that the function of Peer Review is not to make legal decisions. The Peer Review Committees will advise, when asked to do so, in regard to what is considered to be usual and customary practices.

Apparently, the Committee was asked in regard to a claim involving the Chiropractic office out of which you operate. From what I gather the Committee concluded that, inasmuch as the doctor's license incorporates the right to render physical therapy and it was given adjunctively in his office, that this was not usual and customary. They probably concluded that it was usual and customary for one fee billed for the total services performed.

If the above facts are correct, I believe the Committee merely responded to the questions submitted to them, and if the insurance carrier wishes to be guided by that advice, it is their decision to make. The Committee in no way sought to interfere with your business relations, nor is their function or purpose to tell an insurance company whether to pay a claim or not to pay a claim.

I hope the above will act to clarify the function of our Peer Review Committees. I would also like to draw your attention to the fact that there is an immunity statute which, in my opinion, would protect the Committee from any law suit which grew out of its performance as a Committee.

Sincerely,

Philip E. Brown, LL.B.

Philip E. Brown, LL.B.
Chief Administrator, CCA-HSF

PEB:es

cc: CCA Executive Board

Jeremey A. Sigmond, D.C., Inc.

DIPLOMAT - NATIONAL BOARD OF CHIROPRACTIC EXAMINERS

2722 S. ROBERTSON BOULEVARD
LOS ANGELES, CALIFORNIA 90034

(213) 836-3127

August 14, 1983

Edward Hoefling
State Board of Chiropractic Examiners
921 - Eleventh Street, Suite 601
Sacramento, California 95814

Re: Raul Miguel Marco, D.C.

Dear Mr. Hoefling:

Once again I see that the Board of Chiropractic Examiners has been pressured by members of the Peer Review Committee to harass or exert pressure on Dr. Marco on matters that more appropriately should be resolved before an arbitration panel. It does appear to me that through the establishment of priorities that you should expend those resources in a more prudent manner and in the best public interest.

It does appear to me that your actions in this instance appear to be motivated by an ulterior purpose and an unlawful motive and without just cause and which may actually be considered wrongful conduct on your part and an abuse of process.

It does appear to me that the good Dr. Marco is a victim of the Peer Review Committee's conspiracy to restrain trade and fix prices, Business and Profession Code 16600-16700-16758, as well as wrongful interference with prospective economic relationships, Civil Code Procedure 3333 and 3294, as well as bad faith, conspiracy to defraud and fraud, intentional infliction of mental distress and therefore, pursuant to Business and Professions Code Section 16750 (a), Dr. Marco would be entitled to treble the damages sustained by him, as well as reasonable attorney's fees and costs in the event that he decides to take an affirmative action.

In reviewing the material that was forwarded to my office from Dr. Marco, I see that he signed an authorization whereby he would authorize the review of the above mentioned records by the Peer Review Committee of the California Chiropractic Association and that he will abide by its decision.

Edward Hoefling

August 14, 1983

Page Two

Re: Raul Miguel Marco, D.C.

I also see that Progressive Casualty Insurance Company located at 19634 Ventura Boulevard, Suite 115, Tarzana, California 91356 conspired, combined and agreed with the California Chiropractic Health Service Foundation Peer Review Committee, Marcus I. Brown, D.C., State Chairman; Benjamin B. Shearer, D.C., Committee Chairman, hereinafter referred to as "PEER REVIEW" to intentionally and wrongfully interfere with and disrupt Mr. Marco's contractual and other relationships with his patients by restricting the amounts of money they would pay to his patient for a particular chiropractic service rendered to his patient's and thereby restraining Dr. Marco's ability to practice his profession and fixing the amount of money that Dr. Marco could charge for the services rendered by himself.

Mr. Hoefling, to the best of my knowledge, there is no provision in any of Progressive Casualty Insurance Company's policies under which Dr. Marco's patient is making a claim or under the existing California law for Peer Review of any bill submitted under the medical payments, uninsured motorist or third party liability provisions of the subject policy and Progressive Casualty Insurance Company's failure and refusal to fully compensate Dr. Marco for his services has and will in the future interfere with his relationship between himself and his patient.

Furthermore, the Peer Review Committee, knowingly, wilfully and maliciously conspired and agreed to and did falsely and fraudulently represent to Dr. Marco that the Peer Review function was an expression of an opinion by an impartial group of chiropractic doctors, but in no way is meant to interfere with the doctor/patient relationship or the contractual obligations of the respective parties and additionally that the Peer Review Committee in no way attempts to interfere with his business relations and he is free to charge whatever fees he feels his procedure warrants.

Mr. Hoefling, the insurance company's intention in conspiring and agreeing to have Peer Review make the aforementioned false representations to Dr. Marco was to cover up the facts of their combination and conspiracy with the Peer Review Committee to restrain trade and fix the prices which chiropractors, including Dr. Marco, could charge their patients for services rendered to said patients. The representations made by the Peer Review Committee and each of them were, in fact, false. The true facts were that the insurance

MARCUS I. BROWN, D.C.

18614 SHERMAN WAY
RESEDA, CALIFORNIA 91335
TELEPHONE (213) 348-7655

October 3, 1983

TO: California Chiropractic Association
American College of Chiropractic Orthopedists
California Chiropractic Trust

FROM: Marcus I. Brown, D.C.

SUBJECT: Resignation of Offices Held:

CCA-HSF

Co-chairman of Seminars
State Chairman Peer Review Committees
Member Peer Review Committee

ACCO

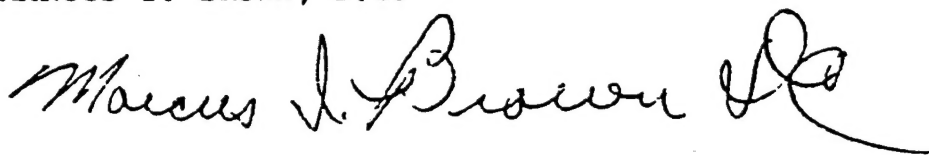
Chairman - Finance Committee
Chairman - Legal Defense Committee

CCT

Chairman - Board of Directors

Effective Immediately

MARCUS I. BROWN, D.C.

A handwritten signature in cursive script, reading "Marcus I. Brown D.C.", followed by a large, stylized flourish.

TAHOE CHIROPRACTIC CLINIC

P.O. BOX 14487
SOUTH LAKE TAHOE, CALIF. 95702
541-5660

11-29-83

Dear Mr. Kothowitz:

Please find enclosed copies that I had to come up with in a hurry for you. I have over three feet of paper work and it will take a little time to go through it all. Enclosed you will find:

A letter from Harveys Wagon Wheel Resort stating that they abide by the fees of the peer review.

A copy of Harveys Panel Doctors Administrators where peer review members of California tried to set up their own company and charge us doctors for treating their employers employees. This corp. was set up in Nevada by peer review members of California. All info included.

Is a memo from Harveys showing where their chiropractic consultant reduced our fees. Their consultant was Dr. Donald Miner and member and friend of peer review members Dennis Swanson, James Holland, Eddie Braddock, Joseph Berg etc.

NOTICE
ALWAYS
THE SAME
NAMES.

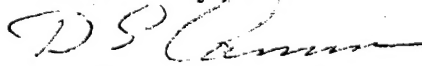
This is just one copy of peer review sending our x-rays to CCA Dr. Joseph Howe for his opinion without permission from the employee or the doctor. These x-rays were taken with a new device that allowed multiple exposures to be shot on one film, Therefore reducing radiation to the patient etc. It is funny, Because their expert of 40 years could not read multiple exposures on the film. Over 100 x-rays were requested by Harveys and Dr. Miner and all handed over to Dr. Howe.

Shows a letter from Harveys stating that they abide strictly with the fees of the peer review committee.

Also shows another letter where the employer states he has requested fees from the peer review.

ME: I have many more letters that I will come up with and send to you.

Sincerely,


D. E. Cannon, DC

Introduced by Assembly Member Alatorre

February 2, 1984

An act to amend Section 43.7 of the Civil Code, relating to liability.

LEGISLATIVE COUNSEL'S DIGEST

AB 2634, as introduced, Alatorre. Liability- Review committees.

Existing law provides that there shall be no monetary liability on the part of and no cause of action for damage against a member of a peer review committee whose purpose is to review the quality of medical, dental, dietetic, or veterinary services rendered by specified professionals, which committee is composed chiefly of those professionals, for any act or proceeding undertaken or performed in reviewing the quality of services, if the committee acts without malice, has made a reasonable effort to obtain the facts, and acts in reasonable belief that the action is warranted.

This bill would extend that immunity to chiropractic peer review committees.

Existing law provides that there shall be no monetary liability on the part of, and no cause of action for damages against a physician or podiatrist who is a member of an insurance underwriting committee, as specified, for any act or proceeding undertaken or performed in evaluating physicians or podiatrists for insurance, if that person acts without malice and has made a reasonable effort, as specified.

This bill would extend that immunity to chiropractor members of underwriting committees with respect to the evaluation of chiropractors.

ote: majority. Appropriation: no. Fiscal committee: no.
e-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 43.7 of the Civil Code is amended to read:

43.7. (a) There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any member of a duly appointed mental health professional quality assurance committee that is established in compliance with Sections 4070 and 5624 of the Welfare and Institutions Code, for any act or proceeding undertaken or performed within the scope of the functions of any such committee which is formed to review and evaluate the adequacy, appropriateness, or effectiveness of the care and treatment planned for, or provided to, mental health patients in order to improve quality of care by mental health professionals if such committee member acts without malice, ~~has made a reasonable effort to obtain the facts of the matter as to which he or she acts, and acts in reasonable belief that the action taken by him or her is warranted by the facts known to him or her after such reasonable effort to obtain facts.~~

(b) There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any professional society, any member of a duly appointed committee of a medical specialty society, or any member of a duly appointed committee of a state or local professional society, or duly appointed member of a committee of a professional staff of a licensed hospital (provided the professional staff operates pursuant to written bylaws that have been approved by the governing board of the hospital), for any act or proceeding undertaken or performed within the scope of the functions of any such committee which is formed to maintain the professional standards of the society established by its bylaws, or any member of any peer review committee whose purpose is to review the quality

1 of medical, dental, dietetic, *chiropractic*, or veterinary
2 services rendered by physicians and surgeons, dentists,
3 dental hygienists, podiatrists, registered dietitians,
4 *chiropractors*, veterinarians, or psychologists which
5 committee is composed chiefly of physicians and
6 surgeons, dentists, dental hygienists, podiatrists,
7 registered dietitians, *chiropractors*, veterinarians, or
8 psychologists for any act or proceeding undertaken or
9 performed in reviewing the quality of medical, dental,
10 dietetic, *chiropractic*, or veterinary services rendered by
11 physicians and surgeons, dentists, dental hygienists,
12 podiatrists, registered dietitians, *chiropractors*,
13 veterinarians, or psychologists or any member of the
14 governing board of a hospital in reviewing the quality of
15 medical services rendered by members of the staff if such
16 professional society, committee, or board member acts
17 without malice, has made a reasonable effort to obtain the
18 facts of the matter as to which he, she, or it acts, and acts
19 in reasonable belief that the action taken by him, her, or
20 it is warranted by the facts known to him, her, or it after
21 such reasonable effort to obtain facts. "Professional
22 society" includes legal, medical, psychological, dental,
23 dental hygiene, dietetic, accounting, optometric,
24 podiatric, pharmaceutical, chiropractic, physical therapist,
25 veterinary, and engineering organizations having as
26 members at least a majority of the eligible persons or
27 licentiates in the geographic area served by the particular
28 society.

29 "Medical speciality society" means an organization
30 having as members at least 25 percent of the eligible
31 physicians within a given professionally recognized
32 medical specialty in the geographic area served by the
33 particular society.

34 (c) The provisions of this section do not affect the
35 official immunity of an officer or employee of a public
36 corporation.

37 (d) There shall be no monetary liability on the part of,
38 and no cause of action for damages shall arise against, any
39 physician and surgeon or, podiatrist, or *chiropractor*
40 who is a member of an underwriting committee of an

1 ~~interindemnity or reciprocal or interinsurance exchange~~
2 ~~or mutual company for any act or proceeding undertaken~~
3 ~~or performed in evaluating physicians and surgeons or,~~
4 ~~podiatrists, or chiropractors for the writing of~~
5 ~~professional liability insurance, or any act or proceeding~~
6 ~~undertaken or performed in evaluating physicians and~~
7 ~~surgeons for the writing of an interindemnity, reciprocal,~~
8 ~~or interinsurance contract as specified in Section 1280.7 of~~
9 ~~the Insurance Code, if such evaluating physician or~~
10 ~~surgeon or, podiatrist, or chiropractor acts without~~
11 ~~malice, has made a reasonable effort to obtain the facts of~~
12 ~~the matter as to which he or she acts, and acts in~~
13 ~~reasonable belief that the action taken by him or her is~~
14 ~~warranted by the facts known to him or her after such~~
15 ~~reasonable effort to obtain such facts.~~

16 (e) This section shall not be construed to confer
17 ~~immunity from liability on any quality assurance~~
18 ~~committee established in compliance with Sections 4070~~
19 ~~and 5624 of the Welfare and Institutions Code or hospital.~~
20 In any case in which, but for the enactment of the
21 preceding provisions of this section, a cause of action
22 would arise against a quality assurance committee
23 established in compliance with Sections 4070 and 5624 of
24 the Welfare and Institutions Code or hospital, such cause
25 of action shall exist as if the preceding provisions of this
26 section had not been enacted.

130
V3

Gene

Draw Distinction
to author
Amendment

Does not Apply to
utilization review

TAHOE CHIROPRACTIC CLINIC

P.O. BOX 14487
SOUTH LAKE TAHOE, CALIF. 95702
541-5660

May 23, 1984

Senate Judiciary Committee
State Capital
Room 2187
Sacramento, CA 95814

Dear Sirs:


I believe there is a complete lack of understanding regarding the Peer Review Committee and your Bill AB 2634, sponsored by Richard Alatorre. The Committee Chairman should be aware of the following situation regarding the California Chiropractic Peer Review.

Peer Review has been declared illegal by the Supreme Court. Union Labor Life Insurance Co. vs Pireno (6-25-82)
This was appealed and denied.

At this time due to the Supreme Court Decision against Peer Review, the International Chiropractic Association and the California Chiropractic Association have cancelled their Peer Review Programs; therefore, why are we passing a bill for a non-existent committee?

Please find enclosed several copies containing related information. Additional information is available if required and I would be willing to meet with your committee. Dr. Sigmond's letter of Dec. 19, 1983 adequately explains the situation.

Sincerest regards,



Dr. Donald E. Cannon

cc Edward Davis
John Doolittle
Bill Lockyer
Melton Monks
Nicholas Petris
Robert Presley
H.L. Richardson
David Roberti
Arthur Torres
Diane Watson
Barry Keene - Chairman

atth: 4

McGINNIS & McGINNIS CHIROPRACTIC, INC.

420 FOLSOM ROAD
ROSEVILLE, CALIF. 95678

916 - 782-3141

re: AB 2634

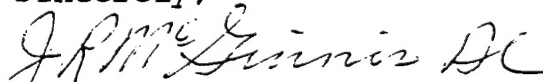
Dear Assembly members:

Chiropractors have been protected under the Initiative Act. This Bill AB2634 takes our rights away. We are separate and distinct. It is our lawful right not to be ruled on or put in peer review groups as the medical and dental. The Supreme Court has ruled peer review unconstitutional in other states. California AB2634 is in violation of Supreme Court rule. Peer review is the whipping post for insurance companies with the help of, (what many in the profession call) "chiropractic insurance prostitutes", prostituting their profession and fellow chiropractors. Many sell out like Judus for 30 pieces of silver and/or more. Many personal injury court cases have been hurt because the "issues" of standard of care, quality and utilization and quantity of care are brought before 12 jurors. Doubt cast by peer review cutting quantity or quality make sick patients afraid to go to court. This bill harms all of the chiropractor's patients even more than the chiropractors.

Peer review cooperates and works closer to insurance companies and is nothing short of a cynical maneuver to cut chiropractic insurance bills 25 to 50%. No wonder the peer review gets paid like a winning slot machine. Peer review violates anti-trust and Rico Laws on racketeering and price fixing.

Since peer review is in much trouble in California with potential multi-million dollar law suits, some have done like Judus and asked for a Bill AB2634 to save them from all their thieving, price fixing and anti-trust violations.

Sincerely,


J.R. McGinnis, D.C.

TAHOE CHIROPRACTIC CLINIC

P.O. BOX 14487
SOUTH LAKE TAHOE, CALIF. 95702
541-5660

Peer Review violates the Anti-Trust laws, Under the federal laws and Rico laws for racketeering due to conspiracy, price fixing & steering.

Peer Review is in much trouble in California, With multi millions of dollars in lawsuits and others being filed weekly, And some have requested like "JUDICE" the passing of AB 2634 to save them from all of their anti trust price fixing, illegal tactics and conspiracy towards their fellow practitioners.

If this law is passed, The lawsuits will then have to include the State of California for passing laws which the Supreme Court have defined as illegal.


RECOMMENDATIONS:

That strict wordings of competency of a doctor, and not the quality and utilization and monetary factors being involved in peer review.

After all a emergency visit to a physician down the street would certainly be a lot cheaper than the same emergency visit to a hospital, Due to over head and possibly better efficiency due to having a lot more emergency equipment on hand. Relate this to a chiropractor practicing in Sacramento out of his home with one or two modalities and compare that to a six thousand sq.ft. clinic with complete staff of registered therapists, licensed X-Ray technician and a quarter of a million dollars in the most modern physical-therapy equipment known. Certainly the chiropractor working out of his home can charge a lot less than the chiropractor with a first class office to handle all types of emergencies and conditions. Why should both get the same fee for services that are extremely different in quality and pricing, Yet this is exactly how peer review works. Everyone is paid the same. Pay the heart transplant surgeon the same as the surgeon removing tonsils ???

NOTE: Peer Review doctors should have a minimum of 8-10 years in practice, and should sit on a peer review board for the improvement of their profession and not for their own monetary gains. There are now doctors with less than two years in practice sitting on Chiropractic Peer Review boards and their income is over 90% directly related to the insurance companies for their peer review association. No doctor should be paid to do peer review, This is more illegal than the plain peer review according to the Supreme Court. The fee for peer review should be paid directly to the association of which that doctor is a member of, and those fees should be used to further the Chiropractic profession.

Sincerely,



D.E. Cannon, DC

TAHOE CHIROPRACTIC CLINIC

P.O. BOX 14487
SOUTH LAKE TAHOE, CALIF. 95702
541-5660

6-14-84

Senate Judiciary Committee
"ATTN: Mr. Gene Wong, Council:
Room 2187
State Capital
Sacramento, California. 95814

Dear Mr. Wong: We are directly opposed to any form of passage
of bill AB 2634 for the following reasons.

I believe that AB 2634 should be delayed until all legal matters are cleared up in California in regards to the illegal tactics of the CCA peer review committees. And at that time an amendment drawing the distinction where peer review will strictly be to review the competency of the physician and not to apply utilization review and monetary aspects which have been ruled NOT THE BUSINESS OF THE INSURANCE INDUSTRY, Therefore the Insurance industry is not exempt from the Anti-Trust laws and therefore the association between the insurance industry and the peer review that is stated in AB 2634 has been ruled improper and therefore subject to the Anti-Trust laws.

Definitely a conflict of interest and used by the insurance companys to reduce the quality and care of Chiropractic patients.

The Chiropractic profession in California has been protected by its INITIATIVE ACT. This bill AB 2634 attempts to take our rights away from us. We are a separate and distinct profession and it is our lawful right not to be ruled on or put into peer review groups as the medical and dental professions, Section 43.7 of the civil code relating to liability. The Supreme Court has ruled Chiropractic peer review unconstitutional in other States and AB 2634 is a direct violation of Supreme Court rule.

The wording if the committee acts without malice and has made a reasonable effort to obtain the facts, and acts in reasonable belief that their actions are warranted. This wording is extremely weak. A dishonest Chiropractor sitting on a insurance board and being paid by the insurance company to cut Chiropractic insurance bills by 25-50% could use those exact words to protect himself under your immunity bill. As the majority of you Senators are attorneys, It should be obvious to you how difficult it would be to prove malice or unreasonable.

Peer Review is the whipping post for Insurance Companies, With the help of Chiropractic prostitutes, Prostituting their profession and fellow Chiropractors and sellout like "JUDAS" for 30 pieces of silver or more. NO WONDER THE PEER REVIEW GETS PAID LIKE A WINNING SLOT MACHINE FROM THE INSURANCE INDUSTRY.

Many personal injuries cases have been damaged because of the issues of Standard care, Quality or Utilization of care are brought before a jury because doubt was cast by the peer review cutting their bills and the quality of care. Therefore this makes injured patients afraid to seek their justices

Members of the State Senate:

I am Dr. J. R. McGinnis, member of the Board of Regents of Life Chiropractic College. I have also been President of an organization called Chiropractic Future Makers or (CFM) and have practiced in California since 1959.

Peer review violates the doctor's civil liberties. It also interferes with a doctor's lawful right to make a living. State associations will not stand and say that peer reviews are unconstitutional as each state association has had their own peer review and it is a tool of power for them. I have been a member of CCA, ACA, ICA, and ICAC, sometimes supporting as many as three associations at one time, realizing they needed my financial help over the past 25 years. For years we have been harassed by state associations as we refused to let any association use peer review on our billing.

Burt Lancaster and other movie stars appeared yesterday at the Capital trying to preserve their rights to protect their images for fifty years after they are dead. We appear here today to protect our civil liberties and our rights to earn a lawful living without being harassed by a peer review.

Peer review was ruled unconstitutional in the Pireno vs Union Labors Insurance Company, June 28, 1982. On August 7th the ICAC Journal printed the story. I practiced two years in Atlanta, Ga. We had ten clinics that served the poor blacks of Atlanta. Sid E. Williams was my employer. He is now President of Life College and President of the ICAC. Martin Luther King's father was one of our biggest chiropractic boosters. Our profession felt akin to the black race then and now as we have to fight all the time to keep our civil rights and civil liberties. Dr. Una Cary, D.C., now deceased, who I practiced with in 1959 in San Bernadino use to have to have her patients come to jail and get their treatments. She was jailed in Riverside and San Bernadino counties prior to the Initiative Act of 1923. She had more respect for the Initiative Act than she did the Constitution of the United States as the Initiative Act kept her out of jail and allowed her to go on practicing chiropractic until she was 86 years old. Dr. Cary and myself and my wife, who is a doctor of chiropractic also, lost all of our rights to deliver babies as well as many other chiropractors because one of the associations opened the Initiative Act and put a bill through that cost each doctor over a million dollars in his lifetime as well as his right to give natural childbirth. Dr. Cary's dying words were tell the chiropractors to never sleep as long as the legislature is in session or trying to take our rights away.

At the present, the chiropractic associations have disbanned their peer review and I see no purpose to rush through legislation for a non-existent peer review. Grave errors and injustices have been wrought by peer review in the many years that I have practiced in California.

We have a peer review that is not working in our profession. We have peer reviews that are trying to become free from law suits. We have peer reviews that want freedom and help from existing law suits and we ask that you not jeopardize the chiropractor or the patient to protect the peer review or you will be throwing out the baby with the bath water.

In summary, I feel that if peer review is to be used then the people on the committee should be held responsible for their decisions, both to the patient and to the patient's doctor. This bill, which grant immunity to the peer review from repercussions and legal actions would give them free reign to give decisions and opinions to insurance companies without justice.

James R. McGinnis
James R. McGinnis, D.C., Ph.C.